

## **MINUTES**

### **PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING THURSDAY, JUNE 15, 2006, 10:00 A.M. CITY HALL 8<sup>TH</sup> FLOOR – COMMISSION CONFERENCE ROOM**

#### **Members Present:**

Peter Partington, City Engineer  
Tony Irvine, City Surveyor  
Tom Terrell, Facilities Manager  
Robert Dunckel, Assistant City Attorney III  
Carol Ingold Mordas, Parks Supervisor  
Julie Leonard, Assistant Utilities Services Director

#### **Staff Present:**

Victor Volpi, Senior Real Estate Officer  
Eileen Furedi, Clerk II  
Jolie Reed, Administrative Assistant I

#### **Guests Present:**

Laura Martin  
Scott Hoffman  
Fred Griner  
Steve Tilbrook

Peter Partington called the meeting at 10:10 a.m. and stated that this is a Committee with the responsibility of advising the City Commission on matters connected with City property.

#### **ITEM ONE:            APPROVAL OF MAY 18, 2006 MINUTES**

**MOTION BY TONY IRVINE. SECONDED BY TOM TERRELL.**

**MOTION PASSED UNANIMOUSLY.**

#### **ITEM FOUR:            VACATION OF A PORTION OF AN ALLEY**

Address or General Location: 413 SW 11 Court

Victor Volpi introduced item stating that the Tarpon River Civic Association & Laura Martin would like your positive recommendation to vacate a portion of the alley in Block 19 of "River Section of Croissant Park". He said this was a 10-foot alley that runs north from SW 11 Court, along the east property line of 413 SW 11 Court. Victor Volpi introduced Laura Martin.

Ms. Martin said she has owned her property since 1996; the alleyway is overgrown, has become a dumping ground, and vehicles are not able to get through the area. Ms. Martin said town homes have recently been developed, along with a 6-foot fence behind her property. Ms. Martin stated she has added an addition to her home, plans to install a 6-foot fence, and is concerned that the two 6-foot fences may allow a hiding place for vagrants. Ms. Martin stated if the vacation was not approved, she would like to install a gate, allowing City access to the property.

Bob Dunckel stated he recently had a conversation with the City Attorney and has been left with the understanding that the City Commission has a new policy of not vacating alleys.

Ms. Martin pointed out that the proposal was for the side alley. Peter Partington asked about ownership, if the alley were to be vacated. Bob Dunckel said the City did not have jurisdiction to determine ownership and if vacated the alley would be divided down the centerline. Peter Partington asked the applicant if the adjoining property owners would accept the extra 5-foot of land, if vacated. Ms. Martin said yes, and would be willing to deed it to her, as well.

Ms. Martin said she had a letter from BellSouth stating that there had been an underground line in the alley since 1985.

Tom Terrell asked about the City Attorney not being in support of vacating alleys. Bob Dunckel said it was a City Commission policy; but exceptions would be made for extraordinary circumstances. Bob Dunckel said he explained the various reasons that homeowners look for alley vacations in residential areas to the City Attorney, but that did not change his mind. Peter Partington stated that the City Commission has not changed the Ordinance. Bob Dunckel said that is correct and added that the PROW Committee is not bound by the criteria in making a recommendation; and the only time the Committee is bound by the criteria in the ULDR would be in the staging areas for public improvement projects, and there may be one or two other areas. Peter Partington said typically the PROW Committee has followed that Ordinance. Bob Dunckel said he did not agree, and did not believe that the criteria in the Ordinance for vacating had ever been read to the PROW Committee. Tony Irvine said it had been read to the Committee on several occasions.

Tom Terrell said he is in support of the vacation, as the City has not maintained the alleyway and do not have the authority to make the adjoining property owners maintain it. Bob Dunckel said in the past, when the City had more staff in the Engineering Division, the alleys were examined in a systematic manner with the view toward vacating them. Peter Partington asked the applicant if acquiring the alley would cause any setback issues to her property. Ms. Martin said no.

Tony Irvine said if the City Commission wanted to have an Ordinance for no vacations ever, they would pass one.

Ms. Martin said the City installed her sewer in the alley and issues had come up, as to who should be the responsible party.

Peter Partington asked the applicant if she had paid the \$3,000 application fee. Ms. Martin said no.

Discussion followed as to the applicant's sewer line being in the alley, and that the responsibility would be with the applicant, if vacated.

Peter Partington suggested that Victor Volpi research the minutes of the City Commission discussions that recently took place, as to the new vacation policy and attach them to the next PROW Agenda for their review.

**MOTION BY TONY IRVINE TO RECOMMEND APPROVAL OF THE PROPOSED VACATION, SUBJECT TO UTILITY EASEMENTS NEEDED BY FRANCHISE UTILITIES BE RETAINED BY A DEDICATED RIGHT-OF-WAY.**

Discussion followed as to BellSouth having the right to place their utilities in a publicly dedicated alley and whether the City should retain a utility easement, and the expense of the relocation being on the applicant if those lines did exist.

**MOTION MODIFIED BY TONY IRVINE TO RECOMMEND APPROVAL OF VACATING THE ALLEY, WHILE RETAINING THE ENTIRE ALLEY AS A UTILITY EASEMENT. SECONDED BY TOM TERRELL.**

Discussion followed as to building permits coming in, the Building Department not requiring that surveys be abstracted for easements, and the possibility of somebody building or putting in a slab over the utility easements.

**Yeas:** Peter Partington, Tony Irvine, Carol Ingold Mordas, Tom Terrell, Julie Leonard

**Nays:** Bob Dunckel

**MOTION PASSED.**

**ITEM TWO: VACATION OF EASEMENT**

Address or General Location: northwest corner of NE 21 Road and NE 64 Street

Victor Volpi introduced item stating that Mr. Tayler A. Gold would like your positive recommendation to vacate a 6-foot platted utility easement at the NW corner of NE 21 Road and NE 64 Street. He said they would like to vacate the entire easement along the north property, if that is not possible they would like to vacate at least the 13.5 inches that the house encroaches upon. Victor Volpi introduced Tyler Gold, Attorney for the owner.

Peter Partington stated that the applicant was not at the meeting.

**MOTION BY TOM TERRELL TO DEFER. SECONDED BY BOB DUNCKEL.**

**MOTION PASSED UNANIMOUSLY.**

**ITEM THREE: REQUEST TO ACCESS PUBLIC RIGHT-OF-WAY**

Address or General Location: right-of-way in City of Fort Lauderdale (no specific address)

Victor Volpi introduced item stating that NextG Networks, Inc., offers wireless operators a solution to any coverage problems within their network that do not require the construction of traditional macro

sites, such as towers, monopoles, or rooftop installation by using optical fiber to connect a distributed antenna system attached to existing infrastructure, namely streetlights and utility poles in the right-of-way. He said NextG Networks, Inc., would like your positive recommendation to use public right-of-way for this purpose. Victor Volpi said Christopher Sinclair, Director of Network Real Estate for the Eastern Region, would like the opportunity to present his request to the Property and Right-of-Way (PROW) Committee.

The applicant was not at the meeting.

**MOTION BY BOB DUNCKEL TO DEFER.**

Peter Partington asked for clarification as to the applicant's request.

Discussion followed as to the legal aspects, fees, issues, and questions involved if determined a franchised utility.

Peter Partington said he would like to meet with the applicant and Bob Dunckel to have a better understating of issues that may come up, prior to the next PROW meeting.

Discussion followed as to Victor Volpi arranging the meeting and Tom Terrell stated he would be at that meeting, as well.

**MOTION SECONDED BY CAROL INGOLD MORDAS.**

**MOTION PASSED UNANIMOUSLY.**

**ITEM FIVE:                    VACATION OF EASEMENT**

Address or General Location: between Birch Road and A1A, and Bayshore Drive and Riomar Street

Victor Volpi introduced item stating that Capri Resorts LLC, would like your positive recommendation to vacate all of the easements (5) in Block 9 of "Birch Ocean Front Subdivision". He stated that Capri Resorts did not believe these easements were ever used by the City and have relocated all other utilities. Victor Volpi introduced Steve Tilbrook and Scott Hoffman, Attorneys for the applicant.

Mr. Tilbrook said they had site plans with the Capri to build a condo hotel and at the time the site plan was approved, the survey did not identify certain utility easements that were not dedicated by the plat. Mr. Tilbrook said the utilities have been relocated, and the utility companies have consented to the vacation of the utility easement. Mr. Tilbrook said the original vacation request was for a full utility easement, but there are utilities in the easement for lots 18 and 19 (west side of the alley). Mr. Tilbrook said the request has been modified to reflect the utility easements for lots 1, 2, 3, and 20. Julie Leonard asked what kind of utilities. Mr. Tilbrook said it is a Florida Power and Light (FPL) pole.

Peter Partington pointed out that this was another case in which a building permit had been issued in the absence and knowledge of the existence of any utility easements. Tony Irvine added that people propose to spend millions of dollars and do not get the proper survey to begin with. Bob Dunckel pointed out a 7.5-foot FPL easement running over the east half of the property, and stated that the City would not have the ability to vacate that; it would have to be vacated by FPL. Mr. Tilbrook said

there is a letter of termination in the backup material. Mr. Tilbrook stated that he was a land use lawyer and did not handle the transaction. Bob Dunckel said he was reluctant to go forward as the easements were dedicated on the face of the plat; they are all separate recorded instruments. Bob Dunckel said he would like the opportunity to review the instruments.

**MOTION BY TONY IRVINE TO DEFER. SECONDED BY BOB DUNCKEL.**

Peter Partington asked why this item should be deferred. Tony Irvine said there might be conditions that the Committee was unaware of. Mr. Tilbrook said he has looked at the instruments recently and did not recall any conditions that were exceptional; however, the instruments did dedicate several easements on several parcels. Peter Partington asked if it was an old plat, and if it is correct that the easements are not shown on the plat. Mr. Hoffman said that is correct. Peter Partington said they are there by instrument. Mr. Hoffman said there are three separate deeds and it looks like there was a form deed that they used for each of the lots. Mr. Hoffman said each deed put an easement on the specific lot; it referenced other lots and blocks because it was the same form that the developer used for the whole area. Peter Partington said the existence of the documents is not a problem, but they should be reviewed by an attorney.

**MOTION PASSED UNANIMOUSLY.**

Bob Dunckel said he recommends that any time there is a request for a vacation that is not dedicated on the face of the plat, the underlining instrument should be made part of the backup material for the PROW Committee.

Discussion followed as to Bob Dunckel meeting with the applicant for further discussion.

Bob Dunckel said in the future backup material should be looked at more carefully, and made reference to today's PROW Agenda, Item Four, wherein the letter from BellSouth, first paragraph reads, no objection... and then further down the letter reads, however we want...The Committee members agreed.

Meeting adjourned at 10:55 a. m.